

Terms of Reference - FAMILY VIOLENCE INQUIRY

The 2009 report of the National Council to Reduce Violence against Women and their Children, *Time for Action*, acknowledged the complex interaction between State and Territory family/domestic violence and child protection laws and the *Family Law Act 1975* (Cth). The National Council also stressed the importance of consistent interpretation and application of laws relating to family/domestic violence and sexual assault, including rules of evidence, in ensuring justice for victims of such violence.

At its meeting of 16-17 April 2009, the Standing Committee of Attorneys-General agreed that Australian law reform commissions should work together to consider these issues.

I refer to the Australian Law Reform Commission for inquiry and report pursuant to subsection 20(1) of the *Australian Law Reform Commission Act 1996* the issues of:

1. the interaction in practice of State and Territory family/domestic violence and child protection laws with the Family Law Act and relevant Commonwealth, State and Territory criminal laws; and
2. the impact of inconsistent interpretation or application of laws in cases of sexual assault occurring in a family/domestic violence context, including rules of evidence, on victims of such violence.

In relation to both issues I request that the Commission consider what, if any, improvements could be made to relevant legal frameworks to protect the safety of women and their children.

Scope of the reference

In undertaking this reference, the Commission should be careful not to duplicate:

- a) the other actions being progressed as part of the Immediate Government Actions announced by the Prime Minister on receiving the National Council's report in April 2009;
- b) the evaluation of the *Family Law Amendment (Shared Parental Responsibility) Act 2006* reforms being undertaken by the Australian Institute of Family Studies; and
- c) the work being undertaken through SCAG on the harmonisation of uniform evidence laws, in particular the development of model sexual assault communications immunity provisions and vulnerable witness protections.

Collaboration and consultation

In undertaking this reference, the Commission should:

- a) have regard to the National Council's report and any supporting material in relation to domestic violence and sexual assault laws;
- b) work jointly with the New South Wales Law Reform Commission with a view to developing agreed recommendations and consult with other State and Territory law reform bodies as appropriate;
- c) work closely with the Australian Government Attorney General's Department to ensure the solutions identified are practically achievable and consistent with other reforms and initiatives being considered in relation to the development of a National Plan to Reduce Violence against Women and their Children or the National Framework for Protecting Australia's Children, which has been approved by the Council of Australian Governments; and
- d) consult with relevant courts, the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, relevant State and Territory agencies, State and Territory Legal Aid Commissions, the Family Law Council, the Australian Domestic Violence Clearinghouse and similar bodies in each State and Territory.

Timeframe

Considering the scale of violence affecting Australian women and their children and acknowledging the Australian Government's commitment to developing a National Plan through COAG for release in 2010, the Commission will report no later than 31 July 2010.

Dated: 17 July 2009

Robert McClelland, Attorney-General

Senate Legal & Constitutional Affairs Committee
Supplementary Budget Estimates 2009-2010
19-20 October 2009

Tabled Document No 10
By: *A-G's Department*
Date: *19/10/09*